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Cameron Park, CA 95682

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**APR 02 2007**

**OFFICE OF PETITIONS**

In re Application of  
Monte D. Mohr  
Application No.: 10/751,073  
Filed: January 5, 2004  
Attorney Docket No: MOHR001

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed July 28, 2006, and in duplicate on January 22, 2007.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the final Office action mailed October 17, 2005, July 13, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). Responses were filed on January 3, 2006, and February 3, 2006. By Advisory Actions mailed January 18, 2006, April 26, 2006, applicant was advised that the responses did not place the application in condition for allowance. The application became abandoned on January 18, 2006. A Notice of Abandonment was mailed on July 17, 2006.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

The petition was not accompanied by a proper response to the final Office action of October 17, 2005. A proper response to the final Office action would include an amendment that places the application in condition for allowance or Request for Continued Examination along with the requisite fee. Petitioner is advised that the response of June 12, 2006, was not considered because it was filed outside the maximum statutory period for reply to the final Office action. If petitioner would like the response considered, petitioner may file the response with the renewed petition. If the examiner determines that the response does not place the application in condition for allowance, the renewed petition under 37 CFR 1.137(b) will be dismissed. Petitioner must file a Request for Continued Examination under 37 CFR 1.114 with a second renewed petition under 37 CFR 1.137(b) to return the application to active examination.

Further correspondence with respect to this matter should be addressed as follows:


By mail:

Mail Stop Petitions  
Commissioner for Patents  
United States Patent and Trademark Office  
Box 1450  
Alexandria, VA 22313-1450

By facsimile:

(571) 273-8300  
Attn: Office of Petitions

Questions regarding the amendment to be filed with the renewed petition must be addressed to Examiner Prone. Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

  
Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions